

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

CURTIS ALLEN GARRISON, #01926573 §

VS. § CIVIL ACTION NO. 6:24cv193

JOHN DOES AND JANE DOES, COFFIELD §
UNIT

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Curtis Allen Garrison, an inmate confined at the Texas Department of Criminal Justice, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit. The complaint was referred for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On May 31, 2024, the Court ordered Plaintiff to file an amended complaint. (Dkt. #9). The order was mailed to Plaintiff at his last known address, which was the Allred Unit. As of today, Plaintiff has not filed an amended complaint, nor has he filed a motion for extension of time to file an amended complaint. In the Order, Plaintiff was warned that the failure to comply with the Order may result in the dismissal of the complaint. He has failed to prosecute this case.

The exercise of the power to dismiss a case for failure to prosecute or obey a court order is committed to the sound discretion of the Court and appellate review is confined solely in whether the Court's discretion was abused. *Green v. Forney Eng'g Co.*, 589 F.2d 243 (5th Cir. 1979); *Lopez v. Aransas Cnty. Indep. Sch. Dist.*, 570 F.2d 541 (5th Cir. 1978). Not only may a district court

dismiss for want of prosecution upon motion of a defendant, but it may also, *sua sponte*, dismiss an action whenever necessary to achieve the orderly and expeditious disposition of cases. *Anthony v. Marion Cnty. Gen. Hosp.*, 617 F.2d 1164 (5th Cir. 1980).

Recommendation

It is therefore recommended that the complaint be dismissed without prejudice for want of prosecution. Fed. R. Civ. P. 41(b).

Within fourteen (14) days after receipt of the Magistrate Judge's Report, any party may serve and file written objections to the findings and recommendations contained in the report.

A party's failure to file written objections to the findings, conclusions and recommendations contained in this Report within fourteen days after being served with a copy shall bar that party from *de novo* review by the district judge of those findings, conclusions and recommendations and, except on grounds of plain error, from appellate review of unobjected-to factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), superseded by statute on other grounds, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

So ORDERED and SIGNED this 22nd day of August, 2024.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE